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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,996	03/08/2001	Masahiro Hinami	01-201	5891

7590

08/09/2005

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EXAMINER

SHAH, MILAP

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/801,996	HINAMI, MASAHIRO	
	Examiner	Art Unit	
	Milap Shah	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/08/2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/28/02, 4/22/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. JP 2000-066879, filed on March 10, 2000.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant is claiming a computer program per se which is considered to be non-statutory subject matter. A "computer program" falls under the "abstract ideas" category. According to MPEP 2106, computer programs "are neither computer components nor statutory processes, as they are not 'acts' being performed. Such claimed computer programs do not define any structural and function interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized." See MPEP 2106 for guidance in presenting properly drafted claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5 and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Ikeda (U.S. Patent No. 6,146,277).

Regarding claims 1 and 7, Ikeda discloses the method and apparatus of the same invention including first or second generator in the form of a graphic processing unit or GPU (column 5, lines 26-27) and a first or second controller in the form of a central processing unit, or CPU (column 5, lines 25-26). Ikeda also discloses the preset display is capable of two display modes including an "action disabled display mode" or normal state and an "action enabled display mode" or combat state (column 15, lines 39-54). Ikeda discloses the background image being a field image indicating a state of a battle scene (map) as show in Figure 4 (column 15, lines 3-4). The "selector" is inherent to the central processing unit of Ikeda as operation data is game data, which the central processing unit handles, and Ikeda also discloses the ability for players select maps and player objects. Ikeda discloses a window for having an object selected by the game player execute the action to let the objects of the players compete with each other in the

game space or map (column 2, lines 45-49). This is analogous to having a map displayed with at least one of a player's elements and an opponent's elements.

Regarding claim 2, Ikeda explains that an "ATTACK!" instruction or command is executed once a player chooses it from the command input window. Then troops from one player will attack troops from the opposing player (column 1, lines 60-62).

Regarding claim 3, since the selector section of Ikeda is inherent to the central processing unit, which also is analogous to a first and second controller, it can be seen that operation data or game data stays within the central processing unit between its selector section and controller section. The CPU's selector section is capable of sending the controller section a certain signal or command based on the pre set condition that one of a certain number of commands is given by the player, for example ATTACK or DEFEND.

Regarding claim 5, Ikeda discloses the big map (large area) corresponds to the earth as an example and the small map (small area) corresponds to a particular continent like Asia for example which has many countries to complete. This disclosure is equivalent to "a plurality of areas" where both players' elements would be positioned. The game player may select from a plurality of areas or maps.

Regarding claim 8, Ikeda discloses a CPU and GPU as noted above which conduct the generating, controlling and selecting processes of Ikeda's invention. With regards to the "means for" statements, the limitations meet the three-prong test per MPEP 2181 and thereby invoke 35 U.S.C. 112, 6th paragraph. Ikeda

discloses a graphic processing unit for generating and displaying image data to the display. The GPU of Ikeda is considered to be an equivalent to applicant's "means for generating" because it performs the same function in substantially the same way and produces substantially the same result. Ikeda discloses a central processing unit to control operation data and selection of player maps and objects. The CPU of Ikeda is considered to be an equivalent to applicant's "means for activating" and "means for receiving" because it performs substantially the same function in substantially the same way and produces substantially the same result.

Regarding claims 9-10, Ikeda discloses both a storage medium for the program (CD-ROM), and a simulation game program stored on the storage medium, which is readable by a computer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda in view of Morihira (U.S. Patent No. 6,093,105).

Regarding claim 4, Ikeda discloses the invention substantially as claimed except for a distance detector. However, Morihira teaches a distance detector for

the purpose of forming an image, which adjusts an enlargement/reduction ratio (zooming ratio) of the window screen (column 3, lines 29-36) when the players are closer or further apart. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ikeda with a distance detector as taught by Morihira in order to display the optimum image showing both players' elements either up close if the players are closer together or a more enlarged (zoomed out) image if the players are further apart.

Regarding claim 6, Ikeda discloses the invention substantially as claimed except for "short-range" and "long-range" circumstances based on a determination of whether opponents are in adjacent areas or not. However, Morihira discloses a distance detector to determine how far apart the opponents are. The operation data or game data includes the distance apart, and based on this distance, the central processing unit of Ikeda can determine whether the opponents are in adjacent areas (close to each other) or not (far from each other) and use the corresponding fighting means. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ikeda with the ability to determine the distance between opponents in order to determine which fighting means to execute on the basis of opponents being in adjacent areas or not.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents may anticipate applicant's disclosure because they discuss either a war simulation game or a video game apparatus similar to

applicant's disclosed video game apparatus. Stephens et al. (U.S. Patent No. 6,155,923), Sakaguchi et al. (U.S. Patent No. 5,390,937), Satake (U.S. Application Publication No. 2001/0044335), Toyohara et al. (U.S. Patent No. 5,885,156), Stephens (U.S. Patent No. 5,707,288), Fukuhara et al. (U.S. Patent No. 5,807,174) and Pederson (U.S. Patent No. 6,254,099).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milap Shah whose telephone number is 571-272-1723. The examiner can normally be reached on M-F: 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Milap Shah
Examiner
Art Unit 3714



JESSICA HARRISON
PRIMARY EXAMINER